

REMARKS

The Office Action mailed October 18, 2004 has been carefully reviewed and the following remarks have been made in consequence thereof.

Claims 8-13 and 15-24 are now pending in this application. Claims 1-7 are canceled without prejudice, waiver, or disclaimer. Claims 8-25 stand rejected. Claims 14 and 25 have been canceled. Claims 8, 16, and 19 have been amended. No new matter has been added.

In accordance with 37 C.F.R. 1.136(a), a two-month extension of time is submitted herewith to extend the due date of the response to the Office Action dated October 18, 2004 for the above-identified patent application from January 18, 2005 through and including March 18, 2005. In accordance with 37 C.F.R. 1.17(a)(1), authorization to charge a deposit account in the amount of \$450.00 to cover this extension of time request also is submitted herewith.

Applicant acknowledges that the restriction requirement has been made final, and Applicant has cancelled Claims 1-7, which were withdrawn from prosecution as a result of the restriction requirement.

The rejection of Claims 19, 21, and 25 under 35 U.S.C. § 102(b) as being anticipated by Lee (U.S. Pat. No. 5,607,611) is respectfully traversed.

Lee describes a microwave oven that includes an operational switch member (10) for selectively controlling two cooking functions. The switch member includes a first knob (67) coupled to a first switching disk (30) and a second knob (62) coupled to a second switching disk (40) sharing a common axis. In operation, both knobs are configured to be rotated independently, such that rotating the first knob selects the cooking time and rotating the second knob selects the cooking menu. An operation start means (14) is positioned to be actuated by axially moving the first knob.

Claim 19 recites a control system for a cooking appliance for use in cooking, the control system includes “a control panel comprising at least one rotary dial input device configured to select control information for said cooking appliance, said control information comprising a cooking time, a cooking mode, a food type, a food weight, a temperature, and a degree of doneness, said cooking appliance operatively responsive to said selection of said control information from said rotary dial, said rotary dial input device configured to actively input entry of said cooking time for said cooking appliance before and during cooking...and a select switch mechanically coupled to said rotary dial input device, said select switch configured to input said control information to said cooking appliance.”

Lee does not describe nor suggest a control system as recited in Claim 19. Specifically, Lee does not describe nor suggest control information including a cooking time, a cooking mode, a food type, a food weight, a temperature, and a degree of doneness and a rotary dial input device configured to actively input entry of the cooking time for the cooking appliance before and during cooking. Rather, in contrast to the present invention, Lee describes an operational switch member for selectively controlling only the cooking time and the cooking menu only before cooking. Accordingly, Lee does not describe nor suggest control information including a food type, a food weight, a temperature, and a degree of doneness and a rotary dial input device configured to actively input entry of the cooking time for the cooking appliance during the cooking. For at least the reasons set forth above, Claim 19 is submitted to be patentable over Lee.

Claim 25 has been canceled. Claim 21 depends from independent Claim 19. When the recitations of Claim 21 are considered in combination with the recitations of Claim 19, Applicant submits that dependent Claim 21 is likewise patentable over Lee.

For at least the reasons set forth above, Applicant respectfully requests that the Section 102 rejection of Claims 19, 21, and 25 be withdrawn.

The rejection of Claims 8-18, 20, and 22-24 under 35 U.S.C. § 103(a) as being unpatentable over Lee (U.S. Pat. No. 5,607,611) in view of Carmean (U.S. Pat. No. 4,568,810) or McGeorge (U.S. Pat. No. 4,636,621) is respectfully traversed.

Carmean describes a microwave oven control system that includes a display control panel (30) with an upper portion including an alphanumeric display (10), function control pads (11), and key pads (12). The panel further includes a start pad (13), a cancel pad (14), a numeric display including two pairs of digits (15) for displaying clock time and one or more digits (16) for displaying, for example, power level.

McGeorge describes an appliance control (102) that includes a rotatable selector member (103) and manually operated selection means (104). The selector member interfaces with a display unit (23B). In operation, rotating the selector member increments the temperature and automatically selects an oven function mode. The display unit gives the user feedback of the temperature selection and word prompt the user as to what oven function the person is selecting.

Applicant respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been an obvious (and well known within the art) to one of ordinary skill in the art to "modify Lee to use its display to interface with the switches to include prompts to the user as a programming guidance for easier operation of the oven control system, in view of Carmean and McGeorge...or use of a lightwave mode and/or a microwave mode for cooking." More specifically, it is respectfully submitted that a prima facie case of obviousness has not been established. As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). MPEP 2143.01. Moreover, the Federal Circuit has determined that:

[I]t is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."

In re Fitch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). Further, under Section 103, "it is impermissible...to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). Rather, there must be some suggestion, outside of Applicant's disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the cited art, nor any reasonable expectation of success has been shown.

Although it is asserted within the Office Action that Lee teaches the present invention except for the use of its control interface displaying device to provide a prompt to guide a user through selecting said control information, and that Carmean teaches that it is well known in the art of microwave ovens to use its display to provide prompts for guiding the user to operate the control of the oven or McGeorge teaches an oven control system with a control panel have a rotary switching selector which interfaces with the display unit to provide prompts to the user.. Rather, Applicant submits that Carmean and McGeorge teach away from Lee in that Lee describes an operational rotating switch member for selectively controlling the cooking time and the cooking menu before cooking starts without prompting a user, Carmean describes a display control panel that prompts a user with an upper portion including an alphanumeric display, function control pads, and key pads, and McGeorge describes a rotatable selector member that interfaces with a display unit to provide prompts to the user. Since there is no teaching nor suggestion in the cited art for the claimed combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present

invention. Of course, such a combination is impermissible, and for this reason alone, Applicant requests that the Section 103 rejection of Claims 8-18, 20, and 22-24 be withdrawn.

Moreover, if art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that the cited art, as a whole, is not suggestive of the presently claimed invention. More specifically, Applicant respectfully submits, as described above, that Carmean and McGeorge teach away from Lee, and as such, supports the nonobviousness of the present invention. Consequently, the presently pending claims are patentably distinguishable from the cited combination.

In addition, and to the extent understood, no combination of Lee, Carmean, and McGeorge describes or suggests the claimed invention. Specifically, Claims 9-18 depend from Claim 8 recites "a control system for a cooking appliance for use in cooking, said control system comprising a control panel comprising at least one rotary dial input device configured to actively input entry of control information for said cooking appliance before and during cooking, said control information comprising at least one of a cooking mode, a food type, a food weight, a temperature, and a degree of doneness, said cooking appliance operatively responsive to said selection of said control information from said rotary dial...and a control interface for providing a prompt to guide a user through selecting said control information, said control interface configured to interact with at least one cooking mode of cooking appliance."

No combination of Lee, Carmean, and McGeorge, describes or suggests a control system as recited in Claim 8. Specifically, Lee does not describe nor suggest at least one rotary dial input device configured to actively input entry of control information for said cooking appliance before and during cooking, and Carmen and McGeorge do not describe a control interface for providing a prompt to guide a user through selecting the control

information, wherein the control interface is configured to interact with at least one cooking mode of cooking appliance . Rather, in contrast to the present invention, Lee describes an operational switch member for selectively controlling the cooking time and the cooking menu only before cooking, Carmean describes a display control panel that prompts a user with an upper portion including an alphanumeric display, function control pads, and key pads, and McGeorge describes a rotatable selector member that interfaces with a display unit to provide prompts to the user. Accordingly, for at least the reasons set forth above, Claim 8 is submitted to be patentable over Lee in view of Carmean or McGeorge.

Claims 9-18 depend from independent Claim 8. When the recitations of Claims 9-18 are considered in combination with the recitations of Claim 8, Applicant submits that Claims 9-18 likewise are patentable over Lee in view of Carmean or McGeorge.

Claim 19 recites a control system for a cooking appliance for use in cooking, the control system includes “a control panel comprising at least one rotary dial input device configured to select control information for said cooking appliance, said control information comprising a cooking time, a cooking mode, a food type, a food weight, a temperature, and a degree of doneness, said cooking appliance operatively responsive to said selection of said control information from said rotary dial, said rotary dial input device configured to actively input entry of said cooking time for said cooking appliance before and during cooking...and a select switch mechanically coupled to said rotary dial input device, said select switch configured to input said control information to said cooking appliance.”

No combination of Lee, Carmean, and McGeorge, describes or suggests a control system as recited in Claim 19. Specifically, no combination of Lee, Carmean, and McGeorge, describes or suggests control information including a cooking time, a cooking mode, a food type, a food weight, a temperature, and a degree of doneness and a rotary dial input device configured to actively input entry of the cooking time for the cooking appliance before and during cooking. Rather, in contrast to the present invention, Lee describes an operational switch member for selectively controlling the cooking time and the cooking menu

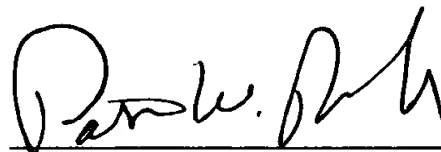
only before cooking, Carmean describes a display control panel that prompts a user with an upper portion including an alphanumeric display, function control pads, and key pads, and McGeorge describes a rotatable selector member that interfaces with a display unit to provide prompts to the user. Accordingly, for at least the reasons set forth above, Claim 19 is submitted to be patentable over Lee in view of Carmean or McGeorge.

Claims 20 and 22-24 depend directly from independent Claim 19. When the recitations of Claims 20 and 22-24 are considered in combination with the recitations of Claim 19, Applicant submits that Claims 20 and 22-24 likewise are patentable over Lee in view of Carmean or McGeorge.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 8-18, 20, and 22-24 be withdrawn.

In view of the foregoing remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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